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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,974

08/31/2006

Mu-Hyun Jin

B-5950PCT 623428-3

8899

36716

7590

05/29/2008

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EXAMINER

SIMMONS, CHRIS E

ART UNIT

PAPER NUMBER

1612

MAIL DATE

DELIVERY MODE

05/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,974	Applicant(s) JIN ET AL.	
	Examiner CHRIS E. SIMMONS	Art Unit 1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' arguments, filed 03/03/2008 and 04/04/2008, have been fully considered and are deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by James Duke (Photochemical Constituents of GRAS Herbs and Other Economic Plants (1992); CRC Press; ISBN:0849336724: page 35).

The reference teaches that Ammi majus seeds contain the compound alloimperatorin.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Harborne et al. (Photochemical Dictionary: A Handbook of Bioactive Compounds from Plants (1999); CRC Press; ISBN:0748406204: page 392).

The reference teaches that Ammi majus fruit contain the compound alloimperatorin.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,176,919 in view of Duke (Photochemical Constituents of GRAS Herbs and Other Economic Plants (1992); CRC Press; ISBN:0849336724: page 35) and Harborne et al. (Photochemical Dictionary: A Handbook of Bioactive Compounds from Plants (1999): CRC Press; ISBN:0748406204: page 392).

The primary reference discloses pharmaceutical and cosmetic compositions comprising extracts of Ammi visnaga and Ammi majus or the vasoactive agents contained therein (abstract). The invention refers to pharmaceutical and cosmetic compositions comprising extracts of Ammi visnaga and Ammi majus containing visnadine and/or visnadine-like coumarins and flavoncoumarols, or visnadine itself in purified form, for the therapeutic treatment by the topical epicutaneous route of peripheral vascular acrosyndromes, particularly of Raynaud's disease and of local perfusion deficiencies of the upper and lower limbs, and for the cosmetic treatment of defects due to insufficient blood perfusion of the skin and of the subcutaneous adipose tissue, particularly for the treatment of precocious senile involution of the face and neck skin, cellulitis, cutaneous stretch marks, alopecias and similar conditions (column 2, lines 11-24). Examples of suitable formulations include, *inter alia*, creams, ointments, gel, and lotions containing 1 to 5% of visnadine or the equivalent of extracts or of visnadine-like compounds including coumarins – alloimperatorin is a coumarin (column 2, lines 40-41). The primary reference does not explicitly teach the compound

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represented by the formula in claims 1 and 2 (i.e., alloimperatorin) because the reference is silent on what part of the plant the extract is made from.

The secondary reference (pg. 35) is relied upon to illustrate that Ammi majus seeds contain alloimperatorin. Harborne et al. (pg. 392) are relied upon to show that the fruit of Ammi majus also contain alloimperatorin.

It would have been obvious for the artisan to make the claimed composition containing alloimperatorin. The motivation would have been the reasonable expectation of successfully making a composition useful for the topical, epicutaneous treatment of pathological or paraphysiological conditions of the skin and of the adnexa thereof.

As for claim 3, it is not patentable to optimize the concentration of ingredients of a composition through routine experimentation. Differences in concentration from what is disclosed in the reference, will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration is critical. It is not inventive to discover the optimum or workable ranges by routine experimentation. (See MPEP 2144.05 [R-5] II A).

Conclusion

No claims are allowed.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRIS E. SIMMONS whose telephone number is (571)272-9065. The examiner can normally be reached on Monday - Friday from 7:30 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on (571) 272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris E Simmons/
Examiner, Art Unit 1612

/Frederick Krass/
Supervisory Patent Examiner, Art Unit 1612